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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/633,312      | 08/04/2003  | Asaf Bareket         | 25624               | 3409             |

7590 06/16/2004

NATH & ASSOCIATES PLLC  
Sixth Floor  
1030 15th Street, N. W.  
Washington, DC 20005

EXAMINER

LEV, BRUCE ALLEN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3634

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,312

Applicant(s)

BAREKET, ASAF

Examiner

Bruce A. Lev

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/4/03.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the side rails being "*extendible*", as in claim 16, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:.

There is NO Figure "1" as stated in the Specification (only 1A-1C).

Furthermore, similar to the above, the Specification does not discuss the side rails being "*extendible*".

### ***Claim Objections***

Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

***Claim Rejections - 35 USC § 112***

Claims 2, 3, and 9-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claims 2 and 9-11, there is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, the preamble clearly indicates that the subcombination of a "ladder" is being claimed with the functional recitation of the "ladder" being used "for a truck". However, the body of the claim positively recites the "truck", e.g., "the first leg portion is attached to the tailgate...second leg is attached to the truck" (claim 2); "upon opening the tailgate...lower than where the ladder is fastened to the...truck" (claim 9); "the lower portion...is a bumper of the truck" (claim 10), etc., which indicates the claims as being drawn to a combination of the "ladder" and the "truck". Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the "ladder" alone or in combination with the "truck", and to present the claims with the language which is consistent with the invention. The applicant should note that "*adapted to be*" language may be appropriate if claiming the "ladder" alone (i.e., "adapted to be secured to").

As concerns claims 12 and 14, the phrase "by means of a pivot" is improper. A more appropriate phrase would be "pivoting means".

As concerns claim 15, the phrase "the side rails" lacks antecedent basis and is therefore vague and indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-11, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by ***Peacock 4,757,876***.

***Peacock sets forth*** a ladder comprising a first leg portion having two parallel side rails with at least one rung; the first leg portion pivotally coupled to a second leg portion comprising a single support leg (viewed as the left leg); the legs being lockably pivotally coupled (in the extended position); and the legs being “extendible”. The applicant should note that the process by which an apparatus is made is NOT given patentable weight within an apparatus claim. Therefore, the process limitation of the rails being “pre-fabricated” is not given patentable weight within the instant claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Peacock in view of Purkapile 4,773,503***.

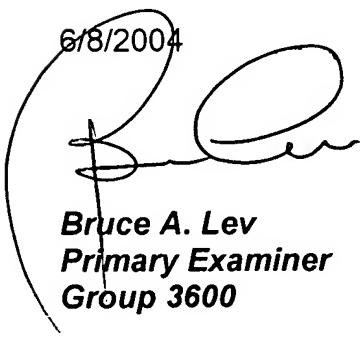
**Peacock sets forth** the ladder, as advanced above, except for the hinge being fixable at a plurality of intermediate, angular positions. However, **Purkapile teaches** a ladder having upper and lower legs being fixable at a plurality of intermediate, angular positions. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pivoting connection of Peacock by forming it as being fixable at a plurality of intermediate, angular positions, as taught by Purkapile, in order to adapt the ladder to un-level and different height surfaces.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

6/8/2004



**Bruce A. Lev**  
**Primary Examiner**  
**Group 3600**